

S.B. CIVIL WRIT PETITION NO.2543/2003

**Manish Kumar Khateek
VS
The State of Rajasthan & Ors.**

DATE OF ORDER: 22.3.2005

HON'BLE MR. PRAKASH TATIA, J.

Dr.Pratistha Dave, for the petitioner.
Mr.S.N.Tiwari, Dy.GA, for the respondents.

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Heard learned counsel for the parties finally.

Learned counsel for the petitioner submits that the document for registration was presented before the Registering Authority and the registration was denied by the Registering Authority by accepting the objection of the UIT, Udaipur wherein the UIT, Udaipur claimed the ownership over the plot in question for which sale deed Annex.1 was executed. According to learned counsel for the petitioner, even the plea of the Registering Authority that Registering Authority can refuse the registration on the ground that registration of the document will be against the public policy and, therefore, the Registering Authority can refuse the registration under Section 22A of the Registration Act, 1908 is absolutely illegal and the Division Bench of this court in the case

delivered in *Basant Nahata Vs. The State of Rajasthan & Ors.* reported in AIR 2001 (Raj) 127 has already declared the said provision arbitrary and in violation to Article 14 of the Constitution of India and declared it as ultra vires.

Learned counsel for the respondents submits that the property in question is belonging to the UIT, Udaipur and, therefore, the Registering Authority has not committed any wrong and the appellate court also rightly dismissed the appeal of the petitioner against the order of the Registering Authority dated 6th July, 2002.

I considered the submissions of learned counsel for the parties. The order passed by the Registering Authority is wholly without jurisdiction as the Registering Authority has no jurisdiction to decide the question of title of the property referred in the sale deed and there was no reason for the Registering Authority to declare the property to be of the UIT, Udaipur in a proceeding of a registration of a document only. The Registering Authority clearly recorded that the executant of the sale deed admitted admission of the document and receipt of the consideration.

In view of the above, the Registering Authority as well as

appellate court both failed to notice law on the point and even did not care to look into the provisions of Registration Act itself.

In view of the above reasons, the writ petition of the petitioner deserves to be allowed, hence allowed and the order of the Registering Authority dated 6th July, 2002 and the order of the appellate authority dated 19th March, 2003 (Annex.4) are quashed and set aside. The Sub-Registrar, Udaipur is directed to register the document in question.

(PRAKASH TATIA), J.

c.p.goyal/-.